

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARL HUBBARD,

Petitioner,

v.

Case Number 13-14540

Honorable David M. Lawson

WILLIE SMITH,

Respondent.

ORDER OF DISMISSAL

On October 30, 2013, petitioner Carl Hubbard, presently confined at the Carson City Correctional Facility in Carson City, Michigan, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On October 31, 2013, the Court ordered the petitioner to submit the \$ 5.00 filing fee or an application to proceed *in forma pauperis* within twenty one days. The petitioner has failed to submit either the filing fee or an application to proceed *in forma pauperis*, and the time for doing so now has passed. The Court therefore will dismiss the petition without prejudice.

Where a petitioner who seeks habeas corpus relief does not comply with a district court's directions in a deficiency order and fails either to pay the filing fee or to provide the required documentation to support an application to proceed *in forma pauperis*, the district court must presume that the prisoner is not a pauper, assess the full filing fee, and dismiss the case for want of prosecution. *Gravitt v. Tyszkiewicz*, 14 F. App'x 348, 349 (6th Cir. 2001) (citing *McGore v. Wrigglesworth*, 114 F. 3d 601, 605 (6th Cir. 1997)). The deficiency order clearly stated that the petitioner was required to submit either the \$ 5.00 filing fee or an application to proceed *in forma pauperis* and warned the petitioner that failure to comply with the order could result in the dismissal of his petition. Because the petitioner failed to pay the filing fee or submit the required application

to proceed *in forma pauperis*, his petition is subject to dismissal for want of prosecution.

Accordingly, it is **ORDERED** that the petition is **DISMISSED** without prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: December 23, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 23, 2013.

s/Shawntel Jackson
SHAWNTEL JACKSON